

Sonos, Inc.’s Motion *In Limine* No. 2

EXHIBIT D

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

GOOGLE LLC,

Plaintiff,

v.

SONOS, INC.,

Defendant.

Case No. 3:20-cv-6754

**SONOS, INC.'S CORRECTED
SUPPLEMENTAL DISCLOSURE OF
ASSERTED CLAIMS AND
INFRINGEMENT CONTENTIONS**

Honorable William Alsup

1 Pursuant to Patent Local Rules 3-1 and 3-2 and the Court's instructions during the January
2 6, 2022 motion hearing, Plaintiff Sonos, Inc. ("Sonos") hereby submits this Supplemental
3 Disclosure of Asserted Claims and Infringement Contentions for U.S. Patent Nos. 9,967,615 (the
4 "'615 Patent"), 10,779,033 (the "'033 Patent"), 10,469,966 (the "'966 Patent"), and 10,848,885
5 ("the '885 Patent") (collectively, "the Asserted Patents").

6 Sonos bases these contentions on its current knowledge, understanding, and belief as to
7 the facts and information available as of the date of these contentions. Sonos has not yet
8 completed its investigation, collection of information, discovery, or analysis relating to this
9 action, and additional discovery, including discovery from Google and third parties, may lead
10 Sonos to further amend, revise, and/or supplement these contentions. Indeed, the accused
11 functionalities of the accused instrumentalities are implemented, at least in part, by proprietary
12 and specialized electronics, firmware, and/or software, and the precise designs, processes, and
13 algorithms used to perform the accused functionalities are held secret, at least in part, and are not
14 publicly available in their entirety. As such, an analysis of non-publicly-available documentation
15 and source code, including that of Google and/or third-parties, such as Spotify, may be necessary
16 to fully and accurately describe every infringing functionality.

17 However, merits discovery in this action has barely begun and, as of the date of service of
18 these contentions, is not scheduled to close until November 30, 2022. To date, Google has not
19 produced documents responsive to Sonos's outstanding document requests, no depositions have
20 been taken, and third-party discovery remains outstanding including document and deposition
21 subpoenas to Spotify.

22 Likewise, Google's interrogatory responses are woefully deficient in many respects and
23 completely non-responsive in others. As a non-limiting example, in response to Sonos's
24 interrogatories asking Google to explain certain discrete aspects of how Google's own products
25 work, Google responded only by referring Sonos to Google's entire source code production
26 (without referring to any particular code modules, functions, methods, line numbers, or even
27 directories) and by block citing over 48,000 pages of Google's document production. As another
28 non-limiting example, in response to Sonos's interrogatory asking how the Accused Cast-Enabled

1 Apps are made available for download, Google refused to respond at all. Without the benefit of
 2 discovery responses from Google, Sonos's inspection of Google's source code is ongoing. Given
 3 that fact discovery is in its infancy and Google served its (deficient) discovery responses on
 4 September 7, 2021 and has refused to engage with Sonos about when it will adequately
 5 supplement its responses, Sonos has not had an opportunity to confer with Google on these
 6 responses or approach the Court for intervention, if necessary.

7 For at least these reasons, Sonos specifically reserves the right to further amend, revise
 8 and/or supplement these contentions and/or accompanying exhibits in accordance with any
 9 Orders of record in this matter, Patent L.R. 3-6, and Federal Rule of Civil Procedure 26(e), as
 10 additional documents and information become available and as discovery and investigation
 11 proceed. Sonos also reserves the right to supplement, modify or amend these contentions to
 12 include additional products or services made, used, sold, or offered for sale in or imported into the
 13 United States by Google.

14 The information in these contentions is not an admission regarding the scope of any
 15 claims or the proper construction of those claims or any terms contained therein. Google has not
 16 indicated whether it intends to advance in this case any construction of any claim pursuant to L.R.
 17 4-2. In the event Google advances any constructions under L.R. 4-2 pursuant to the Court's Case
 18 Management Scheduling Order (Dkt. 67), Sonos reserves the right to revise or supplement these
 19 contentions to address such a construction. *See* Dkt. 67, ¶ 17.

20 **I. Disclosure of Asserted Claims & Infringement Contentions**

21 **A. Identification of Accused Instrumentalities Pursuant to Patent L.R. 3-1(b)**

22 Based on the information currently in its possession, Sonos contends that the Asserted
 23 Patents are infringed by Google via, either individually or in combination, the following products
 24 (individually, "**Accused Instrumentality**" or collectively, "**Accused Instrumentalities**"):

25 '615 and '033 Patents: (a) Smartphone, tablet, and computer devices, including Google's
 26 own "Pixel" smartphone, tablet, and computer devices (e.g., the Pixel, Pixel XL, Pixel 2, Pixel 2
 27 XL, Pixel 3, Pixel 3 XL, Pixel 3a, Pixel 3a XL, Pixel 4, Pixel 4 XL, Pixel 4a, Pixel 4a (5G), Pixel
 28 5, Pixel 5a (5G), Pixel 6, and Pixel 6 Pro phones, the Pixel Slate tablet, and the Pixelbook and

Pixelbook Go laptops), as well as third-party smartphone, tablet, and computer devices, that are (i) installed with any of Google’s own Cast-enabled Android, iOS, Chrome or browser-based apps that allow a user to transfer playback of streaming media content from the user’s smartphone, tablet, or computer devices to a Cast-enabled media player and then control the Cast-enabled media player’s playback, including but not limited to the YouTube app, YouTube Kids app, YouTube TV app, YouTube Music app, and Google Play Music app, accessed via either an app store or ChromeCast-enabled site URL¹ (including youtube.com, music.youtube.com, tv.youtube.com, and spotify.com) and/or (ii) installed with any third-party Cast-enabled app that allows a user to transfer playback of streaming media content from the user’s smartphone, tablet, or computer devices to a Cast-enabled media player and then control the Cast-enabled media player’s playback, including but not limited to the Spotify app² (the foregoing, including Chromecast-enabled websites, are referred to herein either individually or collectively as the “**accused Cast-enabled apps**”)³; (b) Cast-enabled media players having a display screen and installed with Cast-enabled software (e.g., firmware and/or Cast-enabled apps) that allows a user to transfer playback of streaming media content from the Cast-enabled media player to another Cast-enabled media player and then control the other Cast-enabled media player’s playback, including Google’s Home Hub, Nest Hub, and Nest Hub Max media players (referred to herein as “**Cast-enabled displays**”); (c) Servers that host at least one of the accused Cast-enabled apps for download onto or access by smartphone, tablet, or computer devices; and (d) Cloud-based

¹ See, e.g., <https://support.google.com/chromecast/answer/3265953?hl=en>.

² See, e.g., <https://support.google.com/chromecastbuiltin/answer/6279384?hl=en#zippy=%2Cbefore-you-begin-casting%2Ccast-from-chromecast-enabled-apps-to-your-audio-device%2Cfind-new-content-to-cast;https://www.google.com/chromecast/built-in/apps/>.

³ Although Sonos is not currently aware of which third-party smartphone, tablet, and computer devices were, between May 2018 to present, actually installed with one or more accused Cast-enabled apps, and awaits production of this information from Google, in the spirit of providing as much disclosure as possible given Google’s request, and in an effort to address the Court’s guidance during the January 6, 2022 hearing, attached hereto as Appendix 1 is a list of possible third-party smartphone, tablet, and computer devices that may have been used to download and install one or more accused Cast-enabled apps between May 2018 to present. Although efforts have been made to compile as accurate and as complete a list as possible, it may be the case that some of the devices listed in Appendix 1 were not used to download and install any accused Cast-enabled apps between May 2018 to present and/or it may be the case that other devices were used to download and install one or more accused Cast-enabled apps between May 2018 to present. Given this, Sonos reserves the right to revise or supplement this as discovery progresses.

1 infrastructure hosting backend software that facilitates the aforementioned Cast functionality for
 2 transferring playback of streaming media content to a Cast-enabled media player and/or
 3 controlling the Cast-enabled media player's playback.

4 '966 Patent: (a) Smartphone, tablet, and computer devices, including Google's own
 5 "Pixel" smartphone, tablet, and computer devices (e.g., the Pixel, Pixel XL, Pixel 2, Pixel 2 XL,
 6 Pixel 3, Pixel 3XL, Pixel 3a, Pixel 3a XL, Pixel 4, Pixel 4 XL, Pixel 4a, Pixel 4a (5G), Pixel 5,
 7 Pixel 5a (5G), Pixel 6, and Pixel 6 Pro phones, the Pixel Slate tablet, and the Pixelbook and
 8 Pixelbook Go laptops), as well as third-party smartphone, tablet, or computer devices, that are
 9 installed with the Google Home app⁴; and (b) Servers that host the Google Home app for
 10 download onto smartphone, tablet, or computer devices.

11 '885 Patent: "**Cast-enabled media players**," including Google's Chromecast,
 12 Chromecast Ultra, Chromecast Audio, Chromecast with Google TV, Home Mini, Nest Mini,
 13 Home, Home Max, Home Hub, Nest Hub, Nest Hub Max, Nest Audio, and Nest Wifi Point
 14 media players.

15 **B. Identification of Asserted Claims Pursuant to Patent L.R. 3-1(a)**

16 Based on the information currently in its possession, Sonos asserts the following claims
 17 (collectively, the "Asserted Claims") literally and/or under the Doctrine of Equivalents. Sonos
 18 expressly reserves the right to amend and/or supplement its identification of Asserted Claims
 19 should discovery (including Google's technical documentation, source code, and witnesses)
 20 reveal additional, relevant information.

U.S. Patent No.	Asserted Claims
9,967,615	13, 14, 15, 18, 19, 20, 21, 25, 26
10,779,033	1, 2, 4, 9, 11, 12, 13, 16
10,469,966	1, 2, 4, 6, 8, 9, 10, 12, 14, 16
10,848,885	1, 3, 7, 8, 10, 14

24 **i. Direct Infringement Under 35 U.S.C. § 271(a)**

25 '615 and '033 Patents: Sonos contends that each smartphone, tablet, and computer device
 26 installed with any one or more of the accused Cast-enabled apps (referred to herein as a "**Cast-**

27 _____
 28 ⁴ See *supra* note 3. The devices listed in Appendix 1 may have also been used to download and install the Google Home app between November 2019 to present.

1 Dated: February 21, 2022

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